

REMARKS AND REQUEST FOR RECONSIDERATION

Claims 1-5 are pending.

Claims 4-5 have been withdrawn.

The addition of an oil or fat having a high unsaturated fatty acid content to pet food can be problematic because when stored over a long term, the oil or fat is prone to denature, develop an unpleasant smell, and have impaired taste. Furthermore, the addition of minerals, such as copper, iron, manganese and cobalt, to an oil or fat having a high unsaturated fatty acid content as nutrients is reported to accelerate the oxidation reaction of the oil or fat, so that the long-term storage stability of the minerals decline. *See* pages 1-2 of the present specification.

The inventors have investigated the stability of pet food systems combining an oil or fat having a high unsaturated fatty acid content and minerals, by adding various ingredients. As a result, it has been found that the long-term storage stability improves pronouncedly when 5 wt% or more of diacylglycerol is contained in the oil or fat and from 0.1 wt% or more of a vitamin C derivative is added, based on the oil or fat containing unsaturated fatty acids. *See* page 3 of the present specification.

The claimed pet food provides an excellent anti-obesity effect and improves and maintains the skin and hair condition (pages 1, 3-4 of the present specification and the data submitted in the Declaration with this paper).

Thus, the claimed pet food comprising (i) an oil and fat composition and minerals, and (ii) a vitamin C derivative (e.g., ascorbic acid palmitate), provides stability to the claimed pet food and also provides a long-term improvement and maintenance of the skin and hair health conditions and a long-term anti-obesity effect *See* pages 1-4 of the present specification and the Declaration of Tomoshige Umeda submitted with this paper.

Applicants submitted the first Declaration of Tomoshige Umeda with the response filed on March 18, 2009. However, Applicants have discovered a error in Table 2', wherein in Example A, in which 21 dogs had been tested, an improvement of the hair condition was 21%. However, the correct number for the hair improvement tested in 21 dogs was 81%. Therefore, Applicants have corrected the error and submit the corrected Declaration with this paper.

Claims 1-3 are rejected under 35 USC 103(a) as being obvious over Suzuki US 6,764,708 and Schoenherr US 2004/0101545 in view Shields US 6,156,355, Tao US 6,245,377, and Graf 5,270,337 and further in view of Lacombe US 6,277,435 and Lepine US 5,851,573.

The rejection is traversed because (a) the combination of the cited references does not suggest selecting the specific claimed composition, and (b) the claimed pet food surprisingly provides an advantageous benefit due to selecting a composition comprising a DAG- and polyunsaturated fatty acid-containing oil or fat, the claimed minerals and a vitamin C derivative such as ascorbic acid palmitate.

The cited references describe various ingredients of pet food. However, the references do not describe *selecting* the specific claimed pet food from a nearly unlimited number of possible ingredients/amount to be tested for improving pet food.

Further, the cited references do not make the claimed pet food obvious because the claimed composition surprisingly provides an advantageous result. Specifically, the claimed composition surprisingly provides a long-term benefit, i.e., improves or maintains a long-term skin and hair health conditions which are not disclosed or suggested in the references cited by the Examiner, as well as a surprising long-term anti-obesity effect. These benefits are obtained due to the selection of a DAG- and polyunsaturated fatty acid-containing oil or

fat, minerals and a vitamin C derivative such as ascorbic acid palmitate in the combination as claimed.

The cited references alone or in combination do not disclose or suggest that claimed composition including DAG, wherein the unsaturated fatty acid is contained in a high amount, specific minerals and a vitamin C derivative has a beneficial effect such as improving or maintaining a skin and hair conditions and anti-obesity.

The Examiner has alleged that the data submitted with the Declaration “show no change of skin and hair conditions compared the improvement.” Page 4, last paragraph of the Official Action. Applicants respectfully disagree.

In Example A of Table 2’ of the Declaration, 21 obese dogs were fed with the claimed pet food for 8 weeks. As a result, 95 % of the tested obese dogs showed an improvement or no change in the skin condition and 96% in the hair condition, while 24% and 15% of the dogs showed an improvement in the skin and hair condition, respectively. It is noted that the tested obese dogs did not have a bad condition of the skin or hair and were not particularly tested for the skin and hair improvement. However the tested obese dogs showed not only significant anti-obesity result, but *surprisingly*, 24% and 15% of the tested obese dogs showed an improvement in the skin and hair conditions, respectively.

Thus, it is clear from the result of Example A that the claimed pet food is effective for improving or maintaining skin and hair conditions for long-term.

In Example B of Table 2’ of the Declaration, non-obese dogs and obese dogs were fed with the claimed pet food for 3 weeks. 96% of the tested dogs showed an improvement or maintenance in the skin condition and 100 % in the hair condition. Also, 7% and 29% of the tested dogs showed an improvement of the skin and hair conditions.

Thus, it is clear from Example A and B that a claimed pet food is effective for improving or maintaining skin and hair conditions of pets.

The Examiner is incorrect that the data submitted with the Declaration “show no change of skin and hair conditions compared the improvement.” There is not requirement to have a particular percent of an improvement (e.g., 70, 80, or 90%). 24% and 15% of Example A and 7% and 29% of Example B of the improvement of the skin and hair conditions and 95% and 96% of Example A and 96% and 100% of Example B of the improvement or maintenance of the skin and hair conditions are as good as any other data as long as evidence show an unexpected result.

The Examiner has alleged that the anti-obesity effect is expected based on the description of Schoenherr describing pet food containing DAG that provides a reduction in weight of pets.

In response, it is noted that Schoenherr does not disclose or suggest that the DAG containing unsaturated fatty acids in the high amount is effective for the skin and hair health, as described in paragraph [0009] of the present specification and shown in the Declaration.

A pet food containing specific minerals tends to promote oxidation of unsaturated fatty acid and thereby to reduce the beneficial effect of DAG such as the skin and hair health. Accordingly, 0.1 wt% or more of vitamin C derivative is contained in a pet food by virtue of its solubility in DAG in order to improve or maintain the skin and hair condition for long-term. Schoenherr does no describe or suggest that the claimed pet food, which contains DAG including the high content of unsaturated fatty acids, specific minerals and vitamin C derivative, improves or maintains the skin and hair condition.

Thus, one would not have been motivated to combine the disclosure of Schoenherr with the compositions/ingredients of other cited references in order to formulate a specific vitamin C derivative in a specific amount because the cited references do not disclose an effect of DAG which contains unsaturated fatty acid in the high amount on the skin and hair conditions for long-term.

Thus, as can be seen from the present specification and the additional experiments conducted by Applicants, the claimed pet food composition provides surprising advantageous a long term anti-obesity effect and the skin and hair health condition and the storage stability.

Thus, the cited references do not make the claimed pet food obvious.

Applicants request that the rejection be withdrawn.

A Notice of Allowance for all pending claims is requested.

Respectfully submitted,

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